

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: P. Pasero et al. Attorney Docket No.: PREC114191
Application No.: 09/382,555 Group Art Unit: 3764
Filed: August 25, 1999 Examiner: S. Crow
Title: CROSS TRAINING EXERCISE DEVICE

DECLARATION UNDER 37 C.F.R. 1.131OF INVENTOR PAUL D. BARKER

Seattle, Washington 98101

April 7, 2003

TO THE COMMISSIONER FOR PATENTS:

I, Paul D. Barker, of 13137 NE 203rd Place, Woodinville, WA 98072, state that:

1. I am an inventor of the subject matter claimed in the above-identified patent application.

2. Prior to October 16, 1997, I participated in the conception and reduced to practice in the United States of an exercise device having:

a frame defining a rear pivot axis, the frame configured to be supported on a floor;

a first and second foot link, each foot link including a first end portion and a second end portion and a foot support therebetween;

a coupling system associated with the first end portion of each foot link for coupling the first end portion of each foot link to the rear pivot axis so that the first end portion of each foot link travels in a closed path relative to the rear pivot axis;

a guide associated with the frame and operative to engage and direct the second end portions of the foot links along preselected reciprocating paths of travel as the first end portions of the respective foot links travel along their paths of travel, so that when the exercise device is in use and when the second end portion of the foot link travels

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forwardly from a rearmost position the heel portion of the user's foot initially rises at a faster rate than a toe portion thereof, and when the second end portion of the foot link travels rearwardly, from a foremost position, the heel portion of the user's foot initially lowers at a faster rate than the toe portion, said guide including a roller assembly for rollably supporting the second end portions of the first and second foot links; and

a lift mechanism for raising and lowering the roller assembly relative to the rear pivot axis.

3. Various embodiments of the arrangement described in item 2 were discussed in a meeting attended at least by myself and by Jerry E. Nagae, Esq. This meeting was held prior to October 16, 1997. Evidence supporting these embodiments is found in the attached Exhibit A. Exhibit A is a copy of meeting notes taken by Mr. Nagae. The re-dacted date of the notes is prior to October 16, 1997. Also attached is a Declaration by Mr. Nagae attesting to the authenticity of Exhibit A.

4. About mid-page is a drawing of one embodiment in which the forward end of the foot pedals is guided by a roller that is connected to an upright post of the frame. Mr. Nagae's notes indicate that the roller is capable of moving "up and down" in a generally vertical direction. Mr. Nagae's notes further indicate that the roller is moved by "power or gass [sic] spring assist". A gas spring assist method of movement is representative of a type of manual movement method. A "power" method of movement is indicative of automated movement methods.

5. The drawing shows other features of the present invention as well. It shows using a frame with an upright post and a roller extending from the post's side surface. It shows supporting and rolling the forward ends of the foot links along the upper surface of the rollers.

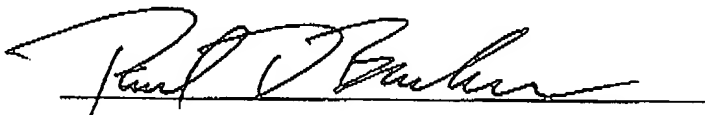
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6. I believe that the above facts establish that the invention as described above was conceived and reduced to practice in the United States prior to October 16, 1997. Further, to the best of my knowledge, the invention was not at any point abandoned, suppressed, or concealed.

7. The redacted portions of the exhibits relate to program details or other sensitive, confidential, proprietary, or trade secret information of Precor that is irrelevant to the issues which this declaration addresses. In editing the original documents, I do not believe that my representative attorneys eliminated any favorable or unfavorable material information relevant to the claimed invention or introduced any misleading inferences.

8. I declare that all statements made herein are of my own knowledge and are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the U.S. Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

Date: APRIL 7, 2003



Paul D. Barker

Attachments:

Declaration of Jerry E. Nagae, Esq.

Exhibit A, Meeting Notes

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